

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

WP(C).No. 22636 of 2006(T)

PETITIONER:

**K.M.JOSEMON, PROPRIETOR,
JEWEL PARK, MALLAPALLY.**

**BY ADV. SRI.SANTHOSH MATHEW,
SRI.SATHISH NINAN.**

RESPONDENTS:

- 1. KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY,
VYDYUTHIBHAVANAM, PATTOM,
THIRUVANANTHAPURAM.**
- 2. THE DEPUTY CHIEF ENGINEER (APTS),
APTS HEADQUARTERS, VYDYUTHIBHAVANAM,
PATTOM, THIRUVANANTHAPURAM.**
- 3. THE ASSISTANT ENGINEER,
ELECTRICAL SECTION,
MALLAPPALLY, PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.JOSE J.MATHEICKEL, SC, KSEB.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C). NO.22636/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE MAHAZAR DTD. 25/02/2003 PREPARED BY THE R.3.

EXT.P.2: COPY OF THE INVOICE DTD. 26/02/2003 ISSUED BY THE R.3.

EXT.P.3: COPY OF THE NOTICE DTD. 25/02/2003 ISSUED BY THE R.3.

EXT.P.4: COPY OF THE NOTICE NO. APTS/AV/1125/03/TVPM DTD. 07/03/2003 ISSUED BY THE R.2.

EXT.P.5: COPY OF THE PROCEEDINGS NO. APTS/AV/1125/03/TVPM 357 DTD. 07/06/2006 OF THE R.2.

EXT.P.6: COPY OF THE LETTER NO. BB/MLPY/2006-07/79 DTD. 24/06/06 ISSUED BY THE R.3.

EXT.P.7: COPY OF THE REPRESENTATION DTD. 01/07/06 SUBMITTED BY THE PETITIONER TO THE R.3.

EXT.P.8: COPY OF THE PROCEEDINGS NO. APTS/AV/1125/03/TVPM 455 DTD. 07/07/2006 OF THE R.2.

EXT.P.9: COPY OF THE LETTER NO. BB1/MLPY/2006-07/33 DTD. 26/07/06 ISSUED BY THE R.3.

EXT.P.10: COPY OF THE LETTER NO. BB1/2006-07/MLY DTD. 14/07/06 ISSUED BY THE R3.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 22636 OF 2006-T

JUDGMENT

The petitioner attacks Ext.P8 order and also the consequential demand Ext.P9 in this writ petition. By Ext.P8, the 2nd respondent has amended Ext.P5 appellate order. It is common case that the order Ext.P5 was amended by Ext.P8 without notice to the petitioner. But, the learned counsel for the KSEB submitted that it is only a correction of a mistake. In the original order, direction was issued to the concerned officer to take action under Section 126 of the Electricity Act, 2003. In fact, the subject-matter of the dispute arose before the enforcement of the said Act. So, this error apparent was noticed and Ext.P8 rectification order was passed. The learned counsel for the petitioner submits that the said order should have been passed only after hearing the petitioner. He has got several contentions regarding the merits of the stand taken by the K.S.E.B.

2. It is not in dispute that the rights of the petitioner are effected by Ext.P8 and it has been passed without notice to him. Therefore, Ext.P8 is quashed. The 2nd respondent will pass fresh orders in the matter, after affording an opportunity of being heard to the petitioner. All the

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contentions of the petitioner are kept open. Needless to say, in view of the quashing of Ext.P8, the consequential demand Ext.P9 cannot be enforced. The amount paid by the petitioner pursuant to the interim order shall be adjusted, subject to the final orders that may be passed by the 2nd respondent.

The Writ Petition is disposed of as above.

2nd March, 2007.

K.BALAKRISHNAN NAIR, JUDGE.

Nm/